

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

KELSEY WILSON,

Plaintiff,

v.

HAMILTON COUNTY GOVERNMENT,

DEPUTY DANIEL WILKEY, in his capacity
as a deputy sheriff for Hamilton County
Government and, in his individual capacity,

Defendants.

DOCKET NO. 1:20-cv-00016-TRM-CHS

**DEPUTY DANIEL WILKEY'S MOTION TO DISMISS AMENDED COMPLAINT FOR
FAILURE TO STATE A CLAIM**

COMES NOW Defendant, Deputy Daniel Wilkey, by and through counsel and pursuant to Fed. R. Civ. P. 12(b)(6) and moves this Court to dismiss the Amended Complaint for failure to state a claim with almost all events complained of being outside the applicable statute of limitations. In support of this Motion, Wilkey will demonstrate as follows:

1. The acts complained of in the Amended Complaint cover a time period of early 2018- May 2019. Plaintiff filed suit in this matter on December 17, 2019.
2. The specific time periods alleged on most events is unclear in the Amended Complaint making it difficult to ascertain when exactly the alleged events happened. This leaves Wilkey in the precarious position of having to guess when some events may have occurred.
3. Almost all of the events/claims of the Complaint are time barred as they fall outside the applicable statute of limitations under federal and state law.
4. Further, the Amended Complaint violates Fed. R. Civ. P. 8 requiring "a short and plain statement" of the relief requested. Instead, Plaintiff has put forth an imprecise pleading

replete with references to vague events covering vague time periods. Such is inadequate to put Wilkey on notice as to what is actually claimed.

5. In support of this Motion, Defendant provides a Memorandum of law in Support.

WHEREFORE PREMISES CONSIDERED, Defendant respectfully requests dismissal of the Amended Complaint and all costs associated with the dismissal assessed against plaintiff for which execution may issue if necessary.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPHEL, P.C.

By: /s/ James F. Exum III

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*Attorneys For Defendant Deputy Daniel
Wilkey*

NOTICE OF ATTEMPT TO REACH AGREEMENT

Counsel for Deputy Wilkey and counsel for Kelsey Wilson discussed on February 7, 2020 whether a resolution could be reached for an amendment to the Amended Complaint to cure a defect in order to avoid Defendant having to file a Motion to Dismiss. The parties could not reach an agreement on this issue and therefore the Motion to Dismiss by Defendant is necessary.

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing *Deputy Daniel Wilkey's Motion to Dismiss Amended Complaint for Failure to State a Claim* with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

This 19th day of February, 2020.

/s/ James F. Exum III

James Exum